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8 Attorneys for the United States of America

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA )

13 Plaintiff, )

14 v. )

15 ALECK KOGAN, )

16 Defendant. )  
17

Criminal No. CR-02-0378-MJJ

PLEA AGREEMENT

18 I, Aleck Kogan, and the United States Attorney's Office for the Northern District of California  
19 (hereafter "the government") enter into this written plea agreement (the "Agreement") pursuant to Rule  
20 11(e)(1)(B) of the Federal Rules of Criminal Procedure:

21 The Defendant's Promises

22 1. I agree to plead guilty to all 3 counts of the captioned Information charging me with tax  
23 evasion for the years 1995, 1997, and 1998 in violation of 26 U.S.C. § 7201. I agree that the elements  
24 of tax evasion as charged in Counts One through Three of the Information and the maximum penalties  
25 are as follows: (1) I owed a substantial amount of income tax on my 1995, 1997, and 1998 tax returns  
26 in addition to what I reported on my tax returns; (2) I made an affirmative attempt to evade or defeat  
27 the additional income tax I owe; and (3) I willfully attempted to evade or defeat the additional income  
28 tax I owe.

- |   |    |                             |           |
|---|----|-----------------------------|-----------|
| 1 | a. | Maximum prison sentence     | 5 years   |
| 2 | b. | Maximum fine                | \$100,000 |
| 3 | c. | Maximum supervised release  | 1 year    |
| 4 | d. | Mandates special assessment | \$100     |

5        2. I agree that I am guilty of the offense to which I will plead guilty, and I agree that the  
6 following facts are true.

7        3. I am a resident of San Carlos, California and owned and operated a business called  
8 Professional Copy Service (PCS) during the year 1988 through February 1998 which was located in  
9 Sunnyvale, California.

10       4. I intentionally evaded incomes taxes owed by me for the year 1995, 1997, and 1998 by  
11 using business checks to make personal investments and pay for my personal living expenses.

12       5. I knew that my bookkeeper and return preparer would rely on the copies of business  
13 check stubs to record PCS's business expenses. Thus, instead of identifying on the copies of check  
14 stubs that some PCS checks were used for personal purposes, I disguised those checks as payments to  
15 business vendors for various business expenditures by writing names of business vendors in the payee  
16 section on the copies of the check stubs and indicated on the copies of the check stubs that the checks  
17 were payments for various business expenses.

18       6. As a result, my return preparer was mislead by the false business information I wrote on  
19 the copies of the check stubs, and recorded my personal expenditures with PCS's business expenses on  
20 PCS's accounting journals. The information from these journals flowed through to PCS's financial  
21 statements. At the time of tax return preparation, my return preparer relied on PCS's financial  
22 statements that contained inflated business expense information.

23       7. I estimate that I claimed over \$1,100,000 in false business expenses on my tax returns  
24 for the years 1995, 1997, and 1998.

25       8. I agree to give up all rights that I would have if I chose to proceed to trial, including the  
26 rights to a jury trial with the assistance of an attorney; to confront and cross-examine government  
27 witnesses; to remain silent or testify; to move to suppress evidence or raise any other Fourth or Fifth  
28 Amendment claims; to any further discovery from the government; and to pursue any affirmative

1 defenses and present evidence.

2 9. I agree to give up my right to appeal my conviction, the judgment, and orders of the  
3 Court. I also agree to waive any right I may have to appeal my sentence.

4 10. I agree not to file any collateral attack on my conviction or sentence, including a petition  
5 under 28 U.S.C. §2255, at any time in the future after I am sentenced, except for a claim that my  
6 constitutional right to the effective assistance of counsel was violated

7 11. I agree not to ask the Court to withdraw my guilty plea at any time after it is entered.

8 12. I agree that the Sentencing Guidelines should be calculated as follows, subject to my  
9 right to file a motion for downward departure pursuant to U.S.C. § 5.K.2.0.

10 a. Base Offense Level, U.S.S.G. § 2T4.1. = 17

11 b. Acceptance of responsibility: = 3  
12 (If I meet the requirements of  
U.S.S.G. § 3E1.1)

13 c. Adjusted offense level = 14

14 13. I voluntarily agree to pay restitution to the United States Department of Treasury in the  
15 amount of \$407,675.71, which represents the tax loss in this case for purposes of the Information.  
16 Though I have requested that this restitution payment be included as a part of the agreed upon  
17 disposition of this case, I agree that this agreement with respect to restitution does not bar the IRS from  
18 making a civil determination with respect to additional taxes, interest and penalties for which I may be  
19 liable, nor will it bar me from civilly contesting any such liabilities as determined by the IRS.

20 14. I agree that, regardless of any other provision in this agreement, the government may  
21 and will provide to the Court and the Probation Office all information relevant to the charged offenses  
22 or the sentencing decision. I also agree that the Court is not bound by the Sentencing Guidelines  
23 calculations above, the Court may conclude that a higher guideline range applies to me, and, if it does,  
24 I will not be entitled, nor will I ask, to withdraw my guilty plea. I agree that I will make a good faith  
25 effort to pay any fine, forfeiture or restitution I am ordered to pay. Before or after sentencing, I will,  
26 upon request of the Court, the government, or the U.S. Probation Office, provide accurate and  
27 complete financial information, submit sworn statements and give depositions under oath concerning  
28 my assets and my ability to pay, surrender assets I obtained as a result of my crimes, and release funds

1 and property under my control in order to pay any fine, forfeiture, or restitution. I agree to pay the  
2 special assessment at the time of sentencing.

3 15. I agree not to commit or attempt to commit any crimes before sentence is imposed or  
4 before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial release (if  
5 any); intentionally provide false information to the Court, the Probation Office, Pretrial Services, or the  
6 government; or fail to comply with any of the other promises I have made in this Agreement. I agree  
7 that, if I fail to comply with any promises I have made in this Agreement, then the government will be  
8 released from all of its promises below, but I will not be released from my guilty plea.

9 16. I agree that this Agreement contains all of the promises and agreements between the  
10 government and me, and I will not claim otherwise in the future.

11 17. I agree that this Agreement binds the U.S. Attorney's Office for the Northern District of  
12 California only, and does not bind any other federal, state, or local agency.

13 The Government's Promises

14 18. The government agrees not to file or seek any additional charges against the defendant  
15 that could be filed as a result of the investigation that led to the captioned indictment.

16 19. The government agrees to recommend the Guidelines calculations set out above.

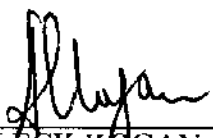
17 The Defendant's Affirmations

18 20. I confirm that I have had adequate time to discuss this case, the evidence, and this  
19 Agreement with my attorney, and that he has provided me with all the legal advice that I requested.

20 21. I confirm that while I considered signing this Agreement, and at the time I signed it, I  
21 was not under the influence of any alcohol, drug, or medicine.

22 22. I confirm that my decision to enter a guilty plea is made knowing the charges that have  
23 been brought against me, any possible defenses, and the benefits and possible detriments of proceeding  
24 to trial. I also confirm that my decision to plead guilty is made voluntarily, and no one coerced or  
25 threatened me to enter into this agreement.


26  
27 Dated: 12/21/02

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ALECK KOGAN  
Defendant

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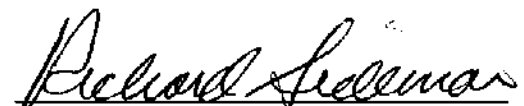
KEVIN V. RYAN  
United States Attorney

Dated: 1/3/03

  
JAY R. WEILL  
Assistant United States Attorney

I have fully explained to my client all the rights that a criminal defendant has and all the terms of this Agreement. In my opinion, my client understands all the terms of this Agreement and all the rights he is giving up by pleading guilty, and, based on the information now known to me, his decision to plead guilty is knowing and voluntary.

Dated: Dec. 30, 2002

  
RICHARD SIDEMAN  
Attorney for Defendant